

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES of AMERICA) COURT FILE
vs.) NO. 19-CR-118 (ECT/DTS)
)
(1) WILLIE ROY EVANS) Courtroom 3B
) Wednesday, July 24, 2019
) Minneapolis, Minnesota
) 2:00 P.M.

C H A N G E O F P L E A

BEFORE THE HONORABLE ERIC C. TOSTRUD
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: **OFFICE OF THE U.S. ATTORNEY**
By: SAMANTHA H. BATES
W. ANDERS FOLK
Assistant U.S. Attorneys
600 United States Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

For the Defendant: **DORSEY & WHITNEY, LLP**
By: R.J. ZAYED, ESQUIRE
50 South Sixth Street - Suite 1500
Minneapolis, Minnesota 55402-1498

TIMOTHY J. WILLETT, RDR, CRR, CRC
Official Court Reporter - United States District Court
Warren E. Burger Federal Building & U.S. Courthouse
316 North Robert Street - Suite 146
St. Paul, Minnesota 55101
651.848.1224

1 (2:00 p.m.)

2 **P R O C E E D I N G S**

3 **IN OPEN COURT**

4 (Defendant present)

5 THE COURT: Good afternoon, everyone. Please be
6 seated.

7 We're here this afternoon in United States of
8 America versus Willie Roy Evans, Criminal File Number
9 19-118.

10 I'll ask counsel to note their appearances for the
11 record, please, starting with the Government.

12 MS. BATES: Good afternoon. Samantha Bates along
13 with Anders Folk for the United States.

14 THE COURT: Good afternoon.

15 MR. ZAYED: Good afternoon, Your Honor. R.J.
16 Zayed on behalf of Willie Roy Evans, who is present and
17 before the Court.

18 THE COURT: Good afternoon.

19 All right. Mr. Evans, I understand that you're
20 here today because you've decided to enter a guilty plea in
21 this case, is that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. As part of this process,
24 I'm going to have to ask you a number of questions and
25 you're going to have to answer those questions under oath,

1 so what I'm going to ask you to do is come up to the witness
2 stand here if you could, Mr. Evans, and stand between the
3 railing and the seat in that witness box if you could for
4 just a second while our courtroom deputy swears you in. So
5 if you could just stand right there for one second.

6

WILLIE ROY EVANS, DEFENDANT, SWORN

8

THE DEFENDANT: Yes.

9

THE COURT: Thank you. You can be seated now.

10

Right there. Sorry.

11

MR. ZAYED: Your Honor, may I --

12

THE COURT: Yes, absolutely, Mr. Zayed.

13

(Mr. Zayed joins the defendant at the witness stand)

14

E X A M I N A T I O N

16

BY THE COURT:

17

Q. Mr. Evans, I want to warn you that because you're under oath, if you say anything that's false, you can be prosecuted now for the separate crime of perjury and the Government could use against you in that prosecution any false statements that you give today under oath, so it's important that you be truthful in everything you say today, okay?

24

A. Yes.

25

Q. All right. If you'd like to talk with Mr. Zayed at

1 anytime today, you're welcome to do so. If I ask you a
2 question and you're not certain how to answer my question,
3 just tell me that you'd like to talk to him and I'll give
4 you as much time as you need.

5 Do you understand that?

6 A. Yes.

7 Q. If there's anything I say today that you don't hear or
8 understand, please tell me so that I can make the question
9 clear for you. Please don't answer a question that confuses
10 you or that you don't hear clearly, and please don't tell me
11 you understand something unless you really do understand it,
12 okay?

13 A. Yes, sir.

14 Q. All right. The most important thing for you to
15 understand here today, Mr. Evans, is that if you do plead
16 guilty and if I accept your plea, you'll stand -- you'll not
17 be able to change your mind later. You'll be stuck with
18 your plea. So if anything happens today that confuses you
19 or worries you, you should get help from Mr. Zayed before
20 you plead guilty, because after you plead guilty it may be
21 too late to help you.

22 Do you understand that?

23 A. Yes, sir.

24 Q. All right. I have to begin this afternoon by asking a
25 few questions to make certain that you're competent to enter

1 a guilty plea.

2 Please state your full name.

3 A. Willie Roy Evans.

4 Q. Have you used an alias or any other name before,
5 Mr. Evans?

6 A. No, sir.

7 Q. How old are you?

8 A. 42 years old.

9 Q. And how far did you go in school?

10 A. First year of college.

11 Q. Are you a United States citizen?

12 A. Yes, sir.

13 Q. Do you have any trouble speaking or understanding the
14 English language?

15 A. No, sir.

16 Q. Are you able to read fairly well?

17 A. Yes.

18 Q. Have you consumed any alcohol in the last 24 hours?

19 A. No, sir.

20 Q. How about drugs? Have you consumed any drugs or
21 medications in the last 24 hours?

22 A. No, sir.

23 Q. Are you generally in good health?

24 A. Yes.

25 Q. How do you feel today? Are you able to think clearly?

1 A. Yes, sir.

2 Q. You're represented in this case by Mr. Zayed. Have you
3 fully discussed the charges against you with Mr. Zayed?

4 A. Yes.

5 Q. And have you told Mr. Zayed everything you want him to
6 know about this case?

7 A. Yes, sir.

8 Q. And are you fully satisfied with the advice and services
9 that you have received from him?

10 A. Yes.

11 THE COURT: Mr. Zayed, have you had sufficient
12 time to investigate this case and discuss it with Mr. Evans?

13 MR. ZAYED: I have, Your Honor.

14 THE COURT: And based on your discussions, are you
15 satisfied that Mr. Evans understands the charges against him
16 and the range of punishments that he'll face if he pleads
17 guilty here today?

18 MR. ZAYED: I am satisfied, Your Honor.

19 THE COURT: And based on your dealings with
20 Mr. Evans, are you satisfied that he is competent to make a
21 decision about whether to plead guilty?

22 MR. ZAYED: Yes, Your Honor. He is competent
23 based on my observations and interactions with him.

24 THE COURT: Okay. Thank you.

25

1 BY THE COURT:

2 Q. Mr. Evans, have you received a copy of the indictment,
3 which is the document that contains the written charges the
4 Government has made against you in this case?

5 A. Yes, sir.

6 Q. Have you read that indictment?

7 A. Yes.

8 Q. And has Mr. Zayed explained the charges made against you
9 in that indictment?

10 A. Yes, sir.

11 Q. And has he answered all of your questions about those
12 charges?

13 A. Yes, sir.

14 Q. Mr. Evans, you've told me that you wish to plead guilty
15 here today, and if you do enter a guilty plea, you'll be
16 giving up a number of rights that you have, rights
17 guaranteed by our Constitution. And one of the things that
18 I'm obligated to do here today is to review with you those
19 rights that you will be giving up, so I'm going to do that
20 now, okay?

21 A. Yes, sir.

22 Q. All right. First, Mr. Evans, you have the right to
23 continue in your plea of not guilty to the charges against
24 you. If you do continue in your plea of not guilty, you
25 have a right to a trial on those charges. You have the

1 right to be tried by a jury that would be made up of 12
2 citizens of this district.

3 You also have the right to a speedy trial. What
4 that means is that if you did want to take your case to
5 trial, you'd get your trial in the next month or two. You
6 would not have to wait any longer than that.

7 Do you understand that?

8 A. Yes, sir.

9 Q. All right. You've also got the right to be represented
10 by an attorney at every stage of this proceeding: before
11 trial, during trial, and after trial. You have the right to
12 be represented by an attorney who you hire or, if you can't
13 afford to hire an attorney, then by an attorney who is
14 appointed to represent you at no cost to you.

15 Do you understand that?

16 A. Yes, sir.

17 Q. At trial you would be presumed to be innocent and I
18 would instruct the jurors that they must presume that you
19 are innocent. The burden would be on the Government to
20 prove your guilt. The burden would not be on you to prove
21 your innocence. You would not have to prove anything at
22 your trial.

23 Not only would the burden be on the Government to
24 prove your guilt, but the Government would have to prove
25 your guilt beyond a reasonable doubt, and I'd instruct the

1 jurors that unless they were convinced of your guilt beyond
2 a reasonable doubt, that they would have to find you not
3 guilty.

4 Do you understand that?

5 A. Yes, sir.

6 Q. If you did go to trial, the Government would seek to
7 prove your guilt by calling witnesses who would come here to
8 court and testify against you and you'd have the right to
9 confront those witnesses.

10 What that means, Mr. Evans, is that you would have
11 the right to be physically present here in the courtroom
12 whenever anyone testified at your trial so you could see for
13 yourself and hear for yourself their testimony. It also
14 means that your attorney, Mr. Zayed, would have the right to
15 ask questions of anyone who testified at your trial.

16 Do you understand that?

17 A. Yes, sir.

18 Q. You'd also have the right to remain silent at your
19 trial. No one could force you to testify. That would be
20 entirely your decision to make, whether to testify or not to
21 testify.

22 If you decided not to testify, your silence could
23 not be used against you. In fact, if you wanted me to, I'd
24 instruct the jurors that when they were deciding whether
25 you'd been proven guilty, they could not consider the fact

1 that you chose not to testify.

2 Does that make sense?

3 A. Yes, sir.

4 Q. Although you'd not have to testify at trial or call
5 witnesses or present evidence, you would have the right to
6 do these things if you wished. You would have the right to
7 take the stand and testify before the jury on your own
8 behalf, to tell them your side of the story. You'd have the
9 right to call others to testify on your behalf. And in
10 fact, you could subpoena witnesses; that is, you could get
11 an order from me compelling people, forcing people, to
12 testify at your trial whether they wanted to or not.

13 Do you understand that?

14 A. Yes, sir.

15 Q. Mr. Evans, if you did testify or call witnesses or
16 present any evidence at your trial, it's important for you
17 to understand that that would not change the burden of
18 proof. The Government would still have the burden of
19 proving your guilt beyond a reasonable doubt.

20 Do you understand that?

21 A. Yes, I do.

22 Q. If you went to trial, you could not be convicted of any
23 charge unless every single member of the jury found that you
24 had been proven guilty of that charge beyond a reasonable
25 doubt. In other words, any guilty verdict would have to be

1 unanimous, all 12 jurors would have to agree.

2 Do you understand that?

3 A. Yes, sir.

4 Q. Finally, Mr. Evans, and most importantly, if you plead
5 guilty and if I accept your plea, you'll stand convicted of
6 the charge to which you plead guilty. You'll not get a
7 trial on that charge, or those charges, you'll give up all
8 of the rights that I've just described, you'll give up your
9 right to appeal any decision that any judge has already made
10 in your case, and you'll give up your right to file any
11 motions before trial, such as motions asking me to rule
12 whether certain evidence can or cannot be used against you.

13 Do you understand that if you plead guilty and
14 that if I accept your plea, you'll be giving up all of these
15 rights that I just described?

16 A. Yes, I understand.

17 Q. One of the other things that I'm obligated to review
18 with you, Mr. Evans, here this afternoon is the nature of
19 the charges that have been made against you, so I'm going to
20 do that now, okay?

21 A. Yes, sir.

22 Q. All right. Mr. Evans, Count 1 of the indictment charges
23 you with conspiracy to distribute and possess with the
24 intent to distribute heroin in violation of Sections
25 841(a)(1), and 841(b)(1)(B), and 846 of Title 21 of the

1 United States Code.

2 For you to be convicted of this charge, the
3 Government would have to prove beyond a reasonable doubt
4 that from at least about December 1st, 2017 to at least
5 about November 30th, 2018, in the State and District of
6 Minnesota and elsewhere, you knowingly and intentionally
7 conspired to distribute and to possess with the intent to
8 distribute 100 grams or more of a mixture or substance
9 containing heroin, a controlled substance.

10 Count 3 of the indictment charges you with aiding
11 and abetting a felon in possession of a firearm in violation
12 of 18 U.S.C., Sections 2, 922(g)(1), and 924(a)(2), and also
13 being a felon in possession of a firearm.

14 Now, for you to be convicted of this charge -- and
15 here I'm speaking only of you possessing a firearm -- the
16 Government would have to prove beyond a reasonable doubt
17 that on or about August 23rd, 2018, in the State and
18 District of Minnesota and elsewhere, having been previously
19 convicted of a crime punishable by a term of imprisonment
20 for a term exceeding one year, that you knowingly possessed
21 in or affecting interstate or foreign commerce a firearm.

22 Mr. Zayed, is there any reason here today, do you
23 think, to go through Count 2 of the indictment? I take it
24 there is not.

25 MR. ZAYED: None, Your Honor.

1 THE COURT: Okay.

2 BY THE COURT:

3 Q. Mr. Evans, do you understand that these are the charges
4 against you in this case?

5 A. Yes, sir, I do.

6 Q. The law also requires me to review with you here this
7 afternoon the maximum penalties that can be imposed upon you
8 stemming from a conviction of these charges, and so I'm
9 going to do that now, okay?

10 A. Yes.

11 Q. All right. If you plead guilty to these charges, you'll
12 be facing the following penalties as enhanced by the
13 information to establish prior conviction that the
14 Government has filed with respect to your prior convictions.

15 As to Count 1, a mandatory minimum imprisonment
16 term of five years and a maximum term of 40 years; a
17 supervised release term, a mandatory minimum term of four
18 years and a maximum of life; a fine of up to \$5 million; a
19 mandatory special assessment of \$100 due at the time of
20 sentencing. I also could order you to pay the costs of
21 prosecution, imprisonment and supervision, you could become
22 ineligible for federal benefits, and finally, I could order
23 forfeiture of the property described in the indictment,
24 specifically including the firearms and ammunition described
25 in that document.

1 As to Count 3, which is the felon-in-possession
2 charge, the maximum term of imprisonment on that charge is
3 ten years; the minimum supervised release term is one year
4 and the maximum is three years; there is a fine that could
5 be imposed of up to \$250,000. Again, there is the mandatory
6 special assessment of \$100 due at the time of sentencing;
7 again, I could order you to pay the costs of prosecution,
8 imprisonment and supervision; you could become ineligible
9 for federal benefits; and again, finally, I could order the
10 forfeiture of the property described in the indictment, and
11 that includes the firearms and ammunition described in that
12 document.

13 Mr. Evans, do you understand that these are the
14 penalties that might be imposed upon you if you plead
15 guilty?

16 A. Yes, Your Honor.

17 Q. I want to say --

18 THE COURT: Yes, Mr. Folk.

19 MR. FOLK: Your Honor, I'm sorry to interrupt. I
20 may have misheard, but I thought I heard Your Honor mention
21 an enhancement that may have been filed and I just want to
22 be clear the Government had -- there have been no
23 enhancements filed in this case.

24 THE COURT: Thank you.

25 MR. FOLK: It doesn't change any of the other

1 information, but just to be clear.

2 THE COURT: Understood. Thank you for that
3 clarification.

4 BY THE COURT:

5 Q. Mr. Evans, I want to say a couple of words about
6 supervised release. That's what happens after you're
7 released from prison. You go to prison, you serve your
8 time, you're released from prison, and then you're placed on
9 supervised release.

10 I'll decide how long you serve on supervised
11 release and I'll also decide what conditions you must follow
12 when you are on supervised release. And I want to warn you
13 that if you violate any of the conditions of your supervised
14 release, you could be sent back to prison and kept in prison
15 for up to the length of the original supervised release
16 term, depending on the violation, without getting any credit
17 for the time that you already served on supervised release.

18 Do you understand that?

19 A. Yes, I do.

20 Q. I should also warn you that there's no parole in the
21 federal system. Therefore, if you're sentenced to prison,
22 you'll have to serve your full sentence. You'll not be
23 released early on parole.

24 Do you understand that?

25 A. Yes, sir, I do.

1 Q. Finally, I need to warn you that because you're a United
2 States citizen and because you've been charged with a
3 felony, if you plead guilty, you may lose your rights to
4 vote, to hold public office, to serve on a jury and to
5 possess any kind of weapon or ammunition.

6 Do you understand that?

7 A. Yes, Your Honor. I understand.

8 Q. All right. Mr. Evans, I understand that you've entered
9 into a plea agreement with the Government, is that right?

10 A. Yes, sir.

11 Q. Have you read the plea agreement?

12 A. Yes, sir.

13 Q. Has Mr. Zayed carefully gone through the plea agreement
14 and explained all of its terms to you?

15 A. Yes, sir.

16 Q. Has he answered all of your questions about the plea
17 agreement?

18 A. Yes, sir.

19 Q. And do you believe that you understand the terms of the
20 plea agreement?

21 A. Yes, I do.

22 Q. Just to avoid any misunderstandings, I'm going to ask
23 Ms. Bates to describe any important provisions in the plea
24 agreement that I've not already covered or that she thinks
25 it would be useful to cover here this afternoon.

1 THE COURT: Ms. Bates?

2 MS. BATES: Thank you, Your Honor.

3

4 **E X A M I N A T I O N**

5 BY MS. BATES:

6 Q. Good afternoon, Mr. Evans.

7 A. Good afternoon, Miss.

8 Q. You stated that you've had a thorough opportunity to go
9 over the plea agreement with Mr. Zayed, correct?

10 A. Yes, ma'am.

11 Q. And I'm sure that you went over the guideline
12 calculations in the plea agreement starting at page 5 with
13 Mr. Zayed previously.

14 A. Yes, ma'am.

15 Q. Now, you understand that you're being sentenced in
16 accordance with the Federal Sentencing Act with reference to
17 the United States Sentencing Guidelines, and those are
18 advisory guidelines for the Court.

19 You understand that?

20 A. Yes, I do.

21 Q. Which means that we can agree in the plea agreement to
22 the guidelines that we're going to go over today, but
23 ultimately it is up to the Court to decide what your
24 sentence will be.

25 You understand that?

1 A. Yes, I do, Miss.

2 Q. We're going to go over the guidelines for both Count 1
3 and Count 3, okay?

4 A. Yes, ma'am.

5 Q. For Count 1, the Base Offense Level is 24, but then two
6 points are added to the offense level because a dangerous
7 weapon was possessed in the course of the conspiracy, so
8 your total Base Offense Level is 26.

9 You understand that?

10 A. Yes, ma'am.

11 Q. For Count 2, your Base Offense Level is 14; however, the
12 firearm was stolen, which adds two points. That leads us to
13 a Base Offense Level of 16, and then an additional four
14 points are added because the firearm was possessed in
15 connection with another felony offense. That amounts to a
16 total Base Offense Level of 20.

17 You understand that?

18 A. Yes, ma'am.

19 MR. ZAYED: If I may, Ms. Bates, there's a typo in
20 the plea agreement on page 6.

21 MS. BATES: Okay. If you could show me where it
22 is.

23 MR. ZAYED: Romanette ii. It says "Count 2."
24 That should be "Count 3."

25 MS. BATES: Oh, thank you.

1 MR. ZAYED: The guideline range should be with
2 respect to Count 3, not Count 2.

3 MS. BATES: You are right. Thank you.

4 BY MS. BATES:

5 Q. So we just went over the total Base Offense Level for
6 Count 3, okay?

7 A. Yes.

8 Q. So the total Base Offense Level for Count 3 is 20.

9 And then moving on to Chapter Three adjustments.
10 The Government believes that no Chapter Three adjustments
11 apply besides adjustments for acceptance of responsibility
12 which you can look to at letter (c) there.

13 And basically what acceptance of responsibility
14 means is that if you provide full, complete and truthful
15 disclosures to Probation and you testify truthfully during
16 the change of plea and your sentencing hearing, so today and
17 at your sentencing hearing in the future, and if you comply
18 with this agreement and undertake no acts inconsistent with
19 acceptance of responsibility before your sentencing, the
20 United States will recommend that you receive a two-level
21 reduction for acceptance of responsibility.

22 In addition to that, the United States will move
23 for an additional one-level reduction at sentencing because
24 you provided timely notice of your intent to enter a guilty
25 plea here today. So in total, that would be three points

1 off of your total Base Offense Level.

2 Do you understand that?

3 A. Yes, I do.

4 Q. Now, you have reserved your right to argue that you
5 played a mitigating role in the charged offenses pursuant to
6 the guidelines, which means at sentencing you can argue that
7 you played a mitigating role and your total Base Offense
8 Level should be reduced because of that, but the United
9 States is not agreeing to that here today.

10 You understand that?

11 A. Yes, I do, Miss.

12 Q. Your Criminal History Category is VI for both Counts 1
13 and 3 based on all the information that the parties have
14 here today.

15 Now, of course, at sentencing the Court could
16 determine based on all the information that the Court
17 receives from Probation that you have a different Criminal
18 History Category, but here today all parties believe that
19 you have a Criminal History Category of VI.

20 Do you understand that?

21 A. Yes, I do.

22 Q. Now, if that's the case, your total guideline range for
23 Count 1 is 92 to 115 months' imprisonment, and for Count 3
24 it's 51 to 63 months' imprisonment.

25 Accordingly, your final guideline range would be

1 92 to 115 months' imprisonment, and again, you're reserving
2 the right to argue that that guideline range should be lower
3 because you played a mitigating role.

4 Do you understand that?

5 A. Yes, I do.

6 Q. Now, if your highest adjusted Base Offense Level is 23,
7 your fine range is \$20,000 to \$5 million, but again, if you
8 argue that you played a mitigating role, that fine range
9 could be lower.

10 Do you understand that?

11 A. Yes, Miss.

12 Q. And as to Count 1, the guidelines require a term of
13 supervised release of at least four years. What that means
14 is that the guidelines recommend that to the Court, but
15 again, the ultimate determination is up to the Court.

16 You understand that?

17 A. Yes, Miss.

18 Q. Both parties, so the United States and you, have
19 reserved the right to make any departure motions and to
20 oppose any motions at sentencing, so that means that you
21 could argue for a sentence outside the guideline range and
22 so could the United States.

23 Do you understand that?

24 A. Yes, I do, Miss.

25 Q. You've also agreed to waive your right to obtain

1 information regarding this case after your conviction
2 pursuant to the Freedom of Information and Privacy Act.
3 Basically, what that means is that you can't use that
4 particular civil statute to try to come back and get
5 information the Government has pertaining to your case.

6 Do you understand that?

7 A. Yes, I do.

8 Q. Thank you.

9 MS. BATES: Your Honor, at this time the
10 Government has nothing else to go over.

11 **F U R T H E R E X A M I N A T I O N**

12 BY THE COURT:

13 Q. Mr. Evans, are those the terms of the plea agreement as
14 you understand them?

15 A. Yes, sir.

16 Q. Other than what's contained in the plea agreement, has
17 the Government or anyone else made any promises to you in
18 order to get you to plead guilty here today?

19 A. No, sir.

20 Q. All right. Mr. Evans, I want to be sure that you
21 understand the impact of the plea agreement on me with
22 respect to your sentencing, so I'm going to talk about that
23 now, all right?

24 A. Yes.

25 Q. First, I want to be sure that you understand that

1 although the Government and your attorney have the right to
2 make a recommendation about your sentence, I do not have to
3 accept their recommendations and I do not have to sentence
4 you according to the plea agreement.

5 Do you understand that?

6 A. Yes, sir, I do.

7 Q. As I sit here today, I don't know what sentence I will
8 impose. I'll not determine your sentence until a
9 presentence investigation is completed and I get a
10 presentence report about you and we've had a sentencing
11 hearing, and since I have no idea what sentence I'll impose,
12 no one else does either, not Mr. Zayed and not the
13 Government.

14 Do you understand that?

15 A. Yes, sir.

16 Q. It's possible that I'll give you a sentence that is
17 longer than you are hoping for or expecting, and if I give
18 you such a sentence, you'll not be able to get out of your
19 guilty plea. You might be able to appeal your sentence, but
20 no matter what sentence I give you, you will be bound by
21 your guilty plea.

22 Do you understand that?

23 A. Yes, sir, I do.

24 Q. Your plea agreement discusses the federal sentencing
25 guidelines and that's something you just talked about with

1 Ms. Bates, but I want to emphasize a couple of things about
2 those guidelines.

3 I'm going to look at the sentencing guidelines and
4 decide for myself what they say about your case. What your
5 plea agreement says is not binding on me. I'll make my own
6 decision.

7 Do you understand that?

8 A. Yes, sir.

9 Q. Here's what I'll do: I'll first look at the sentencing
10 guidelines and decide what range they recommend in your
11 case. I'll then look further at the guidelines, because
12 sometimes the guidelines recommend a sentence above or below
13 that range, what's called a "departure," and that's
14 something Ms. Bates referred to when she was asking you
15 questions, or walking through the terms of the plea
16 agreement with you I should say, and finally I'll decide
17 whether to follow the recommendation of the sentencing
18 guidelines. It is just a recommendation. It is not binding
19 on me. In fact, I'm required to consider many things in
20 addition to the guidelines in arriving at an appropriate
21 sentence. So you can't count on getting a guidelines
22 sentence. You may get a sentence that's higher than the
23 guidelines recommend or lower than the guidelines recommend.

24 Do you understand that?

25 A. Yes, Your Honor.

1 Q. Okay. After I impose the sentence, the Government will
2 have the right to appeal that sentence if it thinks I made a
3 mistake or gave you a sentence that's too short.

4 Do you understand that?

5 A. Yes, sir.

6 THE COURT: Has the plea agreement been signed?

7 MS. BATES: Yes, Your Honor.

8 THE COURT: I take it Mr. Evans needs to initial
9 the clerical correction.

10 MR. ZAYED: That's correct, Your Honor.

11 THE COURT: Okay.

12 (Government, Defendant and defense counsel initial
13 document)

14 (Document handed to the Court)

15 BY THE COURT:

16 Q. Mr. Evans, I know you're sitting a ways away from me
17 right now, but I'm going to hold up the last page of that
18 plea agreement.

19 Is that your signature in the middle there on that
20 plea agreement?

21 A. Yes, Your Honor.

22 Q. Mr. Evans, before you can plead guilty pursuant to this
23 plea agreement, I have to determine that there's a factual
24 basis for your plea. What that means is that I have to make
25 sure that you've committed the crime with which you're

1 charged and to which you're pleading guilty, so I'm now
2 going to ask Ms. Bates to ask you some questions about that
3 crime.

4 THE COURT: Ms. Bates?

5 MS. BATES: Thank you.

6 F U R T H E R E X A M I N A T I O N

7 BY MS. BATES:

8 Q. Mr. Evans, from approximately December 1st, 2017 through
9 November 30th of 2018, you conspired with Dwight Labon and
10 others to buy and sell heroin to individuals throughout the
11 Twin Cities and at other locations, correct?

12 A. Yes, Miss.

13 Q. You agree that you conspired to distribute and possess
14 with the intent to distribute over a hundred but less than
15 400 grams of heroin from that date of December 1st through
16 November 30th of 2018, that you did that voluntarily and
17 that you knew that your actions violated the law, correct?

18 A. Yes, Miss.

19 Q. Further, on August 23rd, 2018, the Minneapolis Police
20 Department took custody of your black Nissan Maxima,
21 correct?

22 A. Yes, ma'am.

23 Q. They executed a search warrant on that black Nissan
24 Maxima and recovered a firearm, correct?

25 A. Yes, ma'am.

1 Q. That firearm was a stolen Ruger SR9 semiautomatic pistol
2 and it was recovered from the ceiling lining of your Nissan,
3 correct?

4 A. Yes, ma'am.

5 Q. You received that firearm in late July of 2018 from an
6 individual who purchased heroin from your co-conspirator
7 Dwight Labon, correct?

8 A. Yes, ma'am.

9 Q. And in fact, you received a small amount of heroin from
10 Dwight Labon for agreeing to pick up that firearm and
11 transfer it to Dwight Labon, correct?

12 A. Yes, ma'am.

13 Q. That Ruger was manufactured in Arizona, and you would
14 agree that that means that the Ruger had to travel in
15 interstate or foreign commerce prior to your possession of
16 it, correct?

17 A. Yes, Miss.

18 Q. Prior to your possession of the firearm in late
19 July through August 23rd of 2018, you knew that you had been
20 convicted of at least four felony offenses that were
21 punishable by a term of imprisonment exceeding one year,
22 correct?

23 A. Yes, ma'am. Yes. I'm sorry.

24 Q. That's okay. And that includes first-degree aggravated
25 robbery, third-degree controlled substance possession,

1 stalking, felony violation of a domestic abuse no-contact
2 order, and fourth-degree controlled substance possession,
3 correct?

4 A. Yes, ma'am.

5 Q. You stipulate and agree that you possessed the firearm
6 on July -- from late July of 2018 through August 23rd of
7 2018, and that your possession of it was knowing and
8 voluntary and that you knew that your actions violated the
9 law, correct?

10 A. Yes, ma'am.

11 MS. BATES: Your Honor, nothing further.

12 THE COURT: Thank you. Mr. Zayed, is there
13 anything further that you'd like to add or clarify for the
14 record before we move on?

15 MR. ZAYED: Two points, Your Honor. Mr. Evans
16 filed a series of motions. I forgot to count. Either 12 to
17 14 motions.

18 Mr. Evans, you understand that those motions, we
19 withdrew those motions based on this plea agreement and we
20 would no longer make those arguments to the judge, correct?

21 THE DEFENDANT: Yes.

22 MR. ZAYED: And the other point, Your Honor, is
23 that we do not -- and there's a footnote in the plea
24 agreement -- that we do not believe that the career offender
25 guidelines apply because two of those convictions are very

1 old, beyond the fifteen-year period, and that's reflected in
2 the footnote in the plea agreement.

3 THE COURT: Understood. Yes, I saw that. Thank
4 you.

5 **F U R T H E R E X A M I N A T I O N**

6 BY THE COURT:

7 Q. Mr. Evans, are you making this plea voluntarily and of
8 your own free will?

9 A. Yes, Your Honor.

10 Q. Has anyone forced you, threatened you, coerced you or
11 done any violence to you or anyone else to get you to plead
12 guilty here today?

13 A. No, sir.

14 Q. Are you going to plead guilty because you are in fact
15 guilty of the crime charged?

16 A. Yes, sir.

17 THE COURT: Mr. Zayed, is there anything else that
18 you'd like me to cover with Mr. Evans before he enters his
19 plea?

20 MR. ZAYED: No, Your Honor. Thank you.

21 THE COURT: Ms. Bates, anything further?

22 MS. BATES: No, Your Honor. Thank you.

23 BY THE COURT:

24 Q. Mr. Evans, do you have any questions for me or for your
25 attorney before I ask for your plea?

1 A. No, sir.

2 Q. Mr. Evans, how then do you plead to Count 1 of the
3 indictment? Do you plead guilty or not guilty?

4 A. Guilty, sir.

5 Q. And how do you plead to Count 3 of the indictment? Do
6 you plead guilty or not guilty?

7 A. I plead guilty.

8 THE COURT: I find that the defendant, Willie Roy
9 Evans, is clearly mentally competent and capable of entering
10 an informed plea. I find that he's aware of the nature of
11 the charges against him, the nature of these proceedings and
12 the consequences of his plea of guilty. I find that his
13 plea of guilty is free, voluntary, knowing and informed, and
14 I find that the plea is supported by independent facts in
15 the record establishing all of the elements of the offenses.
16 Therefore, Mr. Evans, I accept your plea of guilty and I
17 find you guilty as charged.

18 BY THE COURT:

19 Q. Mr. Evans, here's what's going to happen next:

20 The probation officer is going to conduct an
21 investigation and prepare a report that will help me to
22 decide on your sentence. As part of that investigation, the
23 probation officer will interview you and you'll be required
24 to give information for the report. Your attorney may be
25 present when you're interviewed.

1 After that report is prepared you'll have the
2 chance to read it and discuss it with Mr. Zayed. If there's
3 anything in the report that you think is incorrect or
4 unfair, or if something's been left out of the report that
5 you want me to know about, you'll have the chance to file
6 objections to the report. And before I decide on your
7 sentence I'll read not only the report, but any papers that
8 you or the Government have filed as well. We'll then have a
9 sentencing hearing at which I'll impose the sentence.
10 Before I do that I'll give both you and your attorney a
11 chance to speak.

12 Do you understand that?

13 A. Yes, sir.

14 Q. Okay.

15 THE COURT: My understanding is that Mr. Evans is
16 in custody.

17 Mr. Zayed, anything else here today?

18 MR. ZAYED: No, Your Honor. We plan on asking the
19 Court to modify the conditions of detention in the near
20 future.

21 THE COURT: Understood.

22 MR. ZAYED: Thank you.

23 THE COURT: Thank you. Ms. Bates, anything
24 further here today?

25 MS. BATES: No, thank you.

1 THE COURT: All right. Then Mr. Evans is remanded
2 to the custody of the United States Marshals and we'll stand
3 adjourned. Thanks, everyone.

4 (Proceedings concluded at 2:42 p.m.)

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8 C E R T I F I C A T E

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10
11 I, **TIMOTHY J. WILLETTE**, Official Court Reporter
12 for the United States District Court, do hereby
13 certify that the foregoing pages are a true and
14 accurate transcription of my shorthand notes,
15 taken in the aforementioned matter, to the best
16 of my skill and ability.

17

18

19 */s/ Timothy J. Willette*

20

21 **TIMOTHY J. WILLETTE, RDR, CRR, CRC**
22 Official Court Reporter - U.S. District Court
23 Warren E. Burger Federal Building & U.S. Courthouse
24 316 North Robert Street - Suite 146
25 St. Paul, Minnesota 55101
 651.848.1224